

**Matter of Childerston**  
**Del. Supr. No. 181, 1999 (6/3/99)**  
**Board Case No. 68, 1998**

**Disciplinary Rules:** DLRPC 1.3.

**Sanctions Imposed:** Public reprimand subject to conditions.

The Delaware Supreme Court approved the findings and recommendations of a panel of the Board on Professional Responsibility (the "Board") and has ordered that H. James Childerston, Esquire (the "Respondent"), a member of the bar since 1984, with an office in Wilmington, be publicly reprimanded subject to certain conditions.

The Respondent was retained in connection with a wrongful death action. The Respondent failed to respond to repeated requests from the client for information concerning the status of the case. The Respondent incorrectly stated to the client that a complaint had been filed. When the client was informed by Superior Court personnel that there was no record of any complaint having been filed, the client requested that the retainer be returned. The Respondent subsequently acknowledged that the Complaint had not been filed and returned the retainer in full. The Respondent's failure to file the complaint did not impair the client's ability to bring the cause of action in the future.

The Respondent admitted that he violated Rule 1.3 of the Delaware Lawyers' Rules of Professional Conduct (the "Rules") by failing to draft and failing to file the wrongful death complaint, as he had agreed to do on behalf of his client, and by failing to ensure that the complaint actually had been filed after he made the representation to the client that the complaint had been filed. The Respondent also admitted that his conduct was in violation of Rule 1.4(a), by failing to respond to his client's reasonable requests for information concerning the status of the case.

In mitigation, the Supreme Court and the Board considered the Respondent's cooperation with the ODC, the absence of a dishonest or selfish motive, and the Respondent's full and free disclosure to the Board. The Court approved the imposition of a public reprimand subject to the conditions of cooperation with the ODC, consultation with the Professional Guidance Committee, and payment of costs.